

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

OWEN J. ROGAL, D.D.S., P.C.	:	
d/b/a THE PAIN CENTER	:	
	:	CIVIL ACTION NO.
Plaintiff,	:	
	:	05-6074
vs.	:	
SKILSTAF, INC.	:	
	:	
Defendant.	:	

**DEFENDANT'S PRAECLPSE
TO WITHDRAW CERTAIN ARGUMENTS
IN ITS MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

On November 29, 2005, Defendant SkilStaf, Inc. filed with the Court its Motion to Dismiss Plaintiff's Complaint. Defendant's dismissal motion was premised on three separate grounds: (1) lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2); (2) improper venue under Federal Rule of Civil Procedure 12(b)(3); and (3) failure to exhaust administrative remedies under Federal Rule of Civil Procedure 12(b)(6).

Defendant hereby withdraws the first two bases for its Motion to Dismiss, namely, dismissal under Rules 12(b)(2) and 12(b)(3). Accordingly, Defendant's Motion to Dismiss is based solely upon the Plaintiff's failure to exhaust administrative remedies and Defendant seeks dismissal of Plaintiff's Complaint solely under Rule 12(b)(6) of the Federal Rules of Civil Procedure.

Defendant has advised Plaintiff's counsel, Robert Cole, that it has withdrawn the above-referenced arguments from its Motion to Dismiss.

/s/ Beth A. Friel

Jeanne L. Bakker (I.D. No. 79122)
Beth A. Friel (I.D. No. 86548)
Montgomery, McCracken,
Walker & Rhoads, LLP
123 South Broad Street
Philadelphia, PA 19109
215-772-1500

Attorneys for Defendant
SkilStaf, Inc.

Dated: December 6, 2005

CERTIFICATE OF SERVICE

I, Beth A. Friel, counsel for Defendant SkilStaf, Inc., hereby certify that I caused a copy of Defendant's Praeclipe to Withdraw Certain Arguments In Its Motion To Dismiss Plaintiff's Complaint to be served by first class U.S. mail, postage prepaid, upon the persons, at the addresses and on the date that appears below:

Robert E. Cole, P.C.
Lafayette Building
437 Chestnut Street
Suite 218
Philadelphia, PA 19106

Date: December 6, 2005

/s/ Beth A. Friel

Beth A. Friel